

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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LLOYD F. AUDETTE,

Plaintiff,

v.

UMASS CORRECTIONAL HEALTH PROGRAM, a  
program of the UNIVERSITY OF  
MASSACHUSETTS MEDICAL SCHOOL;  
KATHLEEN M. DENNEHY, Commissioner of  
Correction; LOIS RUSSO, Superintendent of Souza-  
Baranowski Correctional Center, and her predecessors  
and successors; AUGUSTIN ENAW, M.D.; and  
CHARLIE BLACK,

Defendants.

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CIVIL ACTION  
NO. 05-10403-DPW

**SECOND JOINT DISCOVERY STATUS REPORT  
AND PROPOSED REVISED PRETRIAL SCHEDULE**

Plaintiff, Lloyd Audette (“Mr. Audette”), and defendants, UMass Correctional Health, Augustin Enaw, M.D., and Charlie Black (collectively, “UMCH”), and Kathleen M. Dennehy, Commissioner of Correction, and Lois Russo, Superintendent of Souza Baranowski Correctional Center (together, “DOC”), respectfully submit the following Second Joint Discovery Status Report and Proposed Revised Pretrial Schedule:

**I. STATUS REPORT**

1. On or about May 10, 2006, the Court entered an Order allowing the parties until August 31, 2006 to complete non-doctor, non-expert discovery, directing them to file a status report and revised pretrial schedule, and directing them to appear before the Court for a status conference on September 14, 2006.

2. On or about August 28, 2006, Mr. Audette and UMCH filed a Joint Motion for Extension of Time and for Other Relief, requesting an extension to complete discovery, an amended scheduling order, leave to depose a person confined in prison, and an enlargement of the number of depositions permitted. In that motion, Mr. Audette and UMCH proposed a ninety (90) day extension of the discovery period to allow Mr. Audette to take discovery from third parties identified during the deposition of Augustin Enaw, M.D. at his August 22, 2006 deposition. The DOC neither opposed nor assented to the Joint Motion for Extension of Time and for Other Relief.

3. As detailed in the Joint Motion for Extension of Time and for Other Relief, Mr. Audette has completed all of the discovery originally contemplated when the Case Management Order, as amended, was entered. Mr. Audette has conducted seven depositions: Michael Rodrigues of the Department of Correction on February 24, 2006; Mindy Bowen of UMass Correctional Health on June 1, 2006; Mark Schnabel of UMass Correctional Health on June 5, 2006; Charles Black of UMass Correctional Health on June 6, 2006; Philip Tavares, M.D. of UMass Correctional Health on June 27, 2006; Lorraine Hazard, M.D. of UMass Correctional Health on August 3, 2006; and Dr. Enaw of UMass Correctional Health on August 22, 2006. In addition, UMCH has moved for the necessary Court permission to depose Mr. Audette.

4. Due to unexpected testimony developed during the deposition of Dr. Enaw on August 22, 2006, Mr. Audette has requested an additional ninety (90) days to take discovery from third parties identified during that deposition. Mr. Audette believes that he will be able to complete these additional depositions in an expedited manner, and file a motion to amend his Complaint, if necessary, within those ninety (90) days. During this period, UMCH also will complete the deposition of Mr. Audette.

5. Because of the testimony developed during the deposition of Dr. Enaw, Mr. Audette also has requested leave to conduct up to fifteen (15) depositions. These depositions are necessary to enable Mr. Audette to fully understand the decisions that ultimately led to him being coadministered the drugs Ribavirin and Epivir. Mr. Audette alleges that this coadministration of drugs caused him physical and emotional harm, allegations that UMCH denies. Additional discovery is also necessary to permit Mr. Audette to further explore UMCH's decisions with respect to Mr. Audette's pain management therapy, which was guided in part by a Pain Management Committee at Souza-Baranowski Correctional Center.

6. Having further reviewed the proposed revised pretrial schedule, the DOC assents to the Joint Motion for Extension of Time and for Other Relief filed by Mr. Audette and UMCH on August 28, 2006.

7. The parties recognize the Court's expectation of adherence to the Case Management Order. Mr. Audette completed all of the discovery he anticipated would be necessary to his claims, but discovered additional information that leads him reluctantly to conclude that further discovery is necessary to prepare his case. No parties will be prejudiced by the extension of time to complete discovery, or the allowance of the other relief sought in the Joint Motion for Extension of Time and for Other Relief. The parties do not anticipate seeking any further extensions, although if new parties are added to the case, those parties may seek additional discovery or a referral of certain claims to the Medical Malpractice Tribunal.

## **II PROPOSED REVISED PRETRIAL SCHEDULE**

Pursuant to Local Rule 16.1(b), counsel for Mr. Audette, counsel for UMCH, and counsel for DOC have conferred and agreed on the following proposed revised pretrial schedule:

<b>Event</b>	<b>Date</b>
Complete all non-expert discovery	November 28, 2006
File motion to amend complaint and amended complaint, if necessary	November 28, 2006
Status Report due	December 5, 2006
Status Conference	December 12, 2006
Plaintiff identifies trial expert(s) and serves initial expert report(s)	December 13, 2006
Defendants identify trial expert(s) and serve initial expert reports	January 12, 2007
Parties to file dispositive motions	January 12, 2007
Plaintiff serves rebuttal expert report(s)	February 1, 2007
Complete expert depositions	March 2, 2007
Status Report due	March 30, 2007
Final pretrial conference	April 6, 2007

### **III. OTHER MATTERS**

1. A status conference in this matter is presently scheduled for September 14, 2006. The parties respectfully request that the Court allow the Joint Motion for Extension of Time and for Other Relief at its earliest convenience, and defer the status conference until early December 2006. In the alternative, the parties request that the Court hear their Joint Motion for Extension of Time and for Other Relief at the September 14, 2006 status conference.

Respectfully submitted,  
**LLOYD F. AUDETTE,**  
By his attorneys,

/s/ Brandon L. Bigelow

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Dated: September 6, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served on counsel for each other party electronically via the CM/ECF system on September 6, 2006.

/s/ Brandon L. Bigelow  
Brandon L. Bigelow

Respectfully submitted,  
**UMASS CORRECTIONAL HEALTH,  
AUGUSTIN ENAW, M.D., and CHARLES  
BLACK,**  
By their attorneys,

/s/ James A. Bello

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Respectfully submitted,  
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By their attorney,

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